

**Driving Under the Influence of Alcohol and Drugs**

When operating a motor vehicle, boat or water craft in Virginia, you are legally considered driving or operating under the influence (DUI) if your blood alcohol content (BAC) is 0.08% or higher. You may be considered under the influence with a lower BAC if your ability to operate a motor vehicle, boat or water craft is impaired. If your driving is affected because you are under the influence of any drug, you may face the same penalties as driving under the influence of alcohol.

If you are involved in a motor vehicle crash and a law enforcement officer has probable cause, you can be arrested for DUI within three hours of the crash without a warrant and at any location.

If you are arrested for DUI a third or subsequent time within a five-year period, you will not be granted bail while you wait to go to trial.

**Open Container**

You may be charged with drinking while operating a motor vehicle if you are stopped by law enforcement and you have an open container of alcohol in the passenger area, the contents of which have been partially removed, and you exhibit signs that you have been drinking. The passenger area refers to the area designed to seat the driver and passengers and any area within the driver’s reach, including an unlocked glove compartment.

**Administrative License Suspension**

For a first DUI offense, your driver’s license will be automatically suspended for seven days if your BAC is 0.08% or higher or if you refuse to take a breath test. For a second DUI offense and/or breath test refusal, your license will be automatically suspended for 60 days or until you go to trial, whichever comes first. For a third DUI offense and/or breath test refusal, your license will be automatically suspended until you go to trial.

**Breath Test Refusal**

You do not have the option of requesting a blood test instead of a breath test for an alcohol-related offense. If you have had a prior DUI conviction or conviction of breath test refusal, you will be charged with a class 2 misdemeanor for refusing to take a blood alcohol test. If you have had two DUI convictions or conviction of breath test refusal within a ten-year period, you will be charged with a class 1 misdemeanor. Both offenses carry a three-year license suspension.

**Penalties**

**First DUI offense**

- ▶ Mandatory, minimum \$250 fine.
- ▶ Driver’s license revocation for one year

**Second DUI offense**

- ▶ Mandatory, minimum \$500 fine
- ▶ Driver’s license revocation for three years
- ▶ Possible jail term up to one year

**Second DUI offense within five years carries the following additional penalty**

- ▶ Mandatory, minimum 20-day jail term

**Second DUI offense within ten years carries the following additional penalty**

- ▶ Mandatory, minimum ten-day jail term

**Third DUI offense**

- ▶ Mandatory, minimum \$1,000 fine
- ▶ Mandatory indefinite driver’s license revocation
- ▶ Prosecution as a Class 6 felony

**Third DUI offense within five years carries the following additional penalty**

- ▶ Mandatory, minimum six-month jail term

**Third DUI offense within ten years carries the following additional penalty**

- ▶ Mandatory, minimum 90-day jail term
- ▶ Permanent forfeiture of your vehicle (if you are the sole owner)

**Fourth and subsequent DUI offense**

- ▶ Mandatory, minimum one-year jail term

**BAC of 0.15% or higher at the time of arrest**

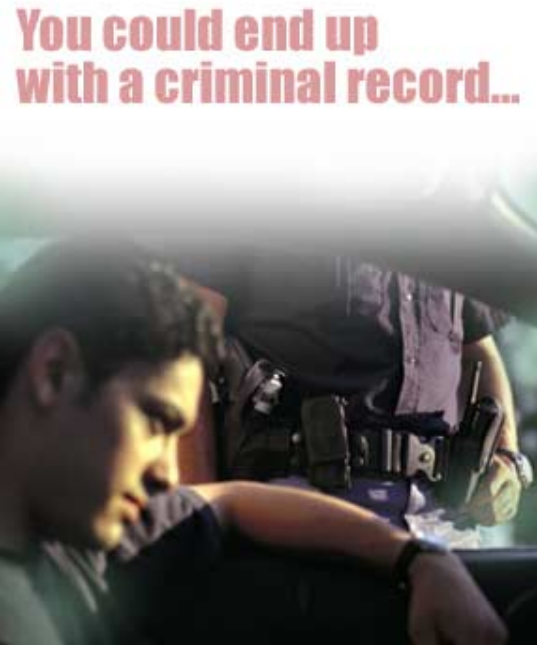
- ▶ First offense carries a mandatory, minimum five-day jail term in addition to all other penalties
- ▶ Second offense within ten years carries a mandatory, minimum ten-day jail term in addition to all other penalties

**BAC of 0.20% or higher at the time of arrest**

- ▶ First offense carries a mandatory, minimum ten-day jail term in addition to all other penalties
- ▶ Second offense within ten years carries a mandatory, minimum 20-day jail term in addition to all other penalties

**Criminal Record**

Any DUI offense will be reported to the Central Criminal Records Exchange by law enforcement at the time of your arrest. In other words, you could end up with a criminal record because of a DUI arrest.



**Zero Tolerance**

If you are under age 21 and you drive with a BAC of at least 0.02% but less than 0.08%, your driver’s license will be suspended for seven days immediately after your arrest. You can be fined up to \$500, face a six-month driver’s license suspension and a possible jail term.

Regardless of age, if driving on a DUI suspended or restricted license, you may be charged with DUI if you drive with a BAC of 0.02% or higher.

**Equal Penalties for Under Age 21**

Persons under age 21 who drive while under the influence of drugs or with a blood alcohol content of 0.08% or higher are subject to the same penalties as persons age 21 or older.

**Transporting Children While Under the Influence**

Conviction of any DUI offense involving a juvenile passenger age 17 or younger in the vehicle at the time of the offense carries a mandatory five-day jail term. You may also be assessed a fine of at least \$500 and up to \$1,000. A second DUI offense with a juvenile age 17 or younger in the vehicle carries an additional 80-hour community service requirement.

**Ignition Interlock Device**

You must have an ignition interlock device installed on every vehicle you own or co-own, as a condition of restricted driving privileges or full restoration of driving privileges if you are:

- ▶ Convicted of a DUI second offense committed within five years of the first DUI conviction, or
- ▶ Convicted of a third or subsequent offense, or

If you are convicted of a first DUI offense and your BAC was 0.15 percent or higher, you must have an ignition interlock device as a condition of a restricted license.

### Vehicle Impoundment

The vehicle you are driving will be immediately impounded or immobilized for 90 days if you are caught driving after your license has been suspended for an alcohol-related offense. The court can impound the vehicle for an additional 90 days following conviction. The owner of the vehicle impounded (other than the driver) may petition the court for release of the vehicle. Anyone who knowingly permits operation of their motor vehicle by a person known to have a revoked or suspended license for an alcohol-related offense can be charged with a Class 1 misdemeanor.

### Penalties for Providing Alcohol to Persons Under Age 21

If you sell alcoholic beverages to a person under age 21, you are subject to a fine up to \$2,500 and 12 months in jail.

If you purchase alcoholic beverages for a person you know to be under age 21, you face a fine of up to \$2,500 and 12 months in jail.

### Penalties for Persons Under Age 21 Possessing Alcohol

If you are under age 21 and you are in possession of an alcoholic beverage, you face a fine ranging from \$500 to \$2,500, up to 12 months in jail, and a suspended license or denial of license.

### Penalties for Possessing Alcoholic Beverages at Public Schools

Drinking or possessing alcoholic beverages on public school grounds can result in a fine of up to \$1,000 and up to six months in jail.

### Misrepresentation of Age

If you are under age 21 and you use or attempt to use an altered, fictitious or simulated document or student ID to establish a false age in an attempt to purchase alcoholic beverages, you will:

- ▶ Be fined at least \$500 but not more than \$2,500;
- ▶ Be required to perform at least 50 hours of community service;
- ▶ Face up to 12 months in jail, and
- ▶ Be subject to suspension of your driver's license for up to 12 months.

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*This guide is an informational tool. It does not supercede the Code of Virginia, Virginia Administrative Code or any other statute. This information was compiled and published by the Virginia Department of Motor Vehicles.*



**Virginia is TOUGH**  
on drunk and drugged drivers

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It can't happen to me...

Yes, it **CAN!**

**Virginia is TOUGH**  
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